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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of	)	
	)	
Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996	)	CC Docket No. 97-11

AT&T COMMENTS

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits these comments on the Commission's Notice in this docket, proposing revisions to the regulatory policies and rules implementing Section 214 of the Communications Act, 47 U.S.C. § 214, as amended.[1]

INTRODUCTION AND SUMMARY

The Commission's proposal to extend the provisions of Section 63.71 of the rules to dominant carriers should be revised to eliminate the presumption that proposed service discontinuances by incumbent local exchange carriers ("ILECs") will be granted by the Commission in the ordinary course. Carriers such as AT&T that depend on the access offerings of these dominant local carriers could often encounter serious difficulties

[1] Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996, CC Docket No. 97-11, Notice of Proposed Rulemaking, FCC 97-6, released January 13, 1997 ("Notice").

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in securing alternative suppliers of access services required to provide competitive interexchange services to their end user customers. However, the Commission should eliminate the burdensome and unnecessary requirement that non-dominant carriers provide written notice to all customers affected by a proposed service discontinuance.

ARGUMENT

This proceeding was initiated as the result of the enactment of Section 402(b)(2)(A) of the Telecommunications Act of 1996, which exempts common carriers from Section 214 requirements "for the extension of any line." In addition to examining how best to implement that statutory provision, the Commission has undertaken here to examine other aspects of Section 214 regulation, including whether to apply to dominant carriers the current Section 63.71 discontinuance procedures now applicable to non-dominant carriers. Notice, ¶¶ 68-71.

Under that regulation, carriers are required to notify all affected customers in writing at least 30 days in advance of a planned discontinuance (unless the Commission authorizes another form of notice in advance).[2] The Notice concludes (¶ 70) that this

[2] See 47 C.F.R. § 63.71(a). The carrier is also required to file with the Commission a report describing the affected service, the affected

(footnote continued on following page)

procedure, which is less exacting than the existing requirements for dominant carriers, "strike[s] a reasonable balance between protecting consumers and reducing unnecessary barriers to exit for all carriers, whether dominant or non-dominant."

AT&T does not object to the Commission's proposal to apply current Section 63.71 notice procedures to a dominant carrier's discontinuance of service. However, retention of the requirement for advance written notice to affected customers is especially necessary for access customers of ILECs. Such customers may find their ability to provide competitive interexchange services jeopardized by an ILEC's decision suddenly to withdraw, reduce or discontinue essential access services that are indispensable to the provision of interexchange offerings, and for which alternative suppliers may well not be readily available. For this reason, the Commission should not extend to dominant carriers the presumption that the Commission "will normally authorize" service discontinuances by such carriers, as stated in current Section 63.71 governing non-dominant carriers.

Experience has also shown there is no need to maintain the written notice requirement for service

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geographic areas, and the planned discontinuance date. 47 C.F.R. § 63.71(b).

discontinuances by non-dominant interexchange carriers ("IXCs"), competitive access providers ("CAPs"), and competitive local exchange carriers ("CLECs"). As a threshold matter, there is no reasonable possibility that any customer of a non-dominant carrier could make the showing required to forestall discontinuance of a service, as Section 63.71 implicitly acknowledges.[3] Indeed, AT&T's review of reported Commission decisions under Section 63.71 has disclosed no case in which a service discontinuance or reduction by a non-dominant carrier was delayed -- much less barred -- by the Commission.

Against this background, there can be no justification for a decision to continue to impose the burden and cost upon non-dominant carriers of identifying potentially affected customers and providing written notification to those subscribers of a service discontinuance.[4] When it first adopted Section 63.71 in

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[3] The notice to affected customers prescribed by Section 63.71(a)(5) states that the Commission "will normally authorize th[e] proposed discontinuance of service" unless customers show that they "would be unable to receive service or a reasonable substitute from another carrier."

[4] Satisfying the Section 63.71 written notice requirement could in some circumstances require a non-dominant carrier to communicate with thousands of individual subscribers. By contrast, ILECs would ordinarily need to notify at most a few hundred carrier customers to satisfy Section 63.71 requirements.

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1980, the Commission emphasized that its objective was to eliminate regulatory exit barriers that could interfere with the growth of a competitive telecommunications marketplace.[5] Continuing to require customer notification of planned service discontinuances by non-dominant carriers will have exactly the dampening effect that the Commission sought to avoid.

Moreover, Section 63.15 of the Commission's rules already recognizes that individualized customer notification by non-dominant carriers is unnecessary discontinuances of international services.[6] There is no

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[5] See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 85 F.C.C.2d 1, 49 (1980). The Commission stated there that

> "in a competitive marketplace ease of exit is essential. If regulatory exit barriers are not lowered, carriers may be discouraged from entering high risk markets for fear they may not be able to discontinue service in a reasonably short period of time if it proves unprofitable. Ease of exit is also a fundamental characteristic of a competitive market."

[6] The Commission has also recently clarified that the "less burdensome" Section 63.15 procedure (providing solely for written notice to the Commission prior to discontinuance), and not Section 63.71, should apply to international carriers' service discontinuances. See Streamlining the International Section 214 Authorization Process and Tariff Requirements, 11 FCC Rcd 12884, 12904 (1996)(¶ 47).

reason to continue to apply such a notification requirement to non-dominant domestic carriers.

WHEREFORE, for the reasons stated above, the Commission should eliminate the customer notification requirement for non-dominant carriers' service discontinuances under Section 63.71 of the Commission's Rules.

Respectfully submitted,

AT&T CORP.

By _____

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